IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1058 OF 2005

Leena Anil Devasthali ..Appellant.

Vs.

Rajesh Eknath Khandave & Ors. ..Respondents.

....

Ms.Leena Anil Devasthali - Appellant present in person.

CORAM : DR.D.Y.CHANDRACHUD, J.

5th December, 2005.

P.C. :

Prima facie, at the interlocutory stage, the Learned Trial Judge while granting an injunction in a suit for specific performance has noted that the Appellant herein does not deny that there was a transaction involving an agreement to sell. The Appellant who appears in person does not dispute that there was a transaction, but according

to her a notice was issued in the newspaper by which the transaction was cancelled. A receipt showing the payment of Rs.5.35 lacs to the Appellant was produced on the record of the Trial Court. According to the Appellant, this receipt is not a genuine document. This is not an issue which can be resolved without evidence being adduced. Consequently, the question as to whether payment was made and as to whether the receipt was genuine is a triable issue which will have to be determined on the basis of evidence at the trial of the suit. At this stage, the grant of an interlocutory injunction restraining the Appellant from alienating the property cannot be said to be an error. Having regard to the circumstances of the case, it is necessary to observe that all issues on merits, including the question as to whether the receipt that is relied upon is genuine or otherwise, are left open to be decided at the trial. The Learned Trial Judge will expedite the hearing of the suit and endeavour to dispose of the suit within a period of six months from the date on which an authenticated copy of this order is produced before him. The Appeal is accordingly dismissed.